

REMARKS

Attorney for Applicants submits this Letter in response to the Office Action dated January 26, 2005. It is respectfully submitted that this Letter places the subject application in condition for allowance. Such action is respectfully solicited.

Attorney for Applicants acknowledges that Claims 1 to 24 are presently pending and, further, acknowledges that an Applicants have elected to prosecute Claims 1-5 (Group 1) in the present application. Claims 6 to 24 are directed to non-elected inventions of related technology. Applicants have retained Claims 6-24 in the present application to allow the Examiner to consider rejoinder of these non-elected claims upon the finding of Claims 1-5 in condition for allowance. Such rejoinder would be in accordance with the MPEP procedures for related inventions.

Attorney for Applicants acknowledges the withdrawal of the 35 USC 102 rejection of Claims 1-5 with respect to the teachings by Bowles (US Patent 6,187,444) and the 35 USC 103 rejection of Claims 1-5 over the teaching of Bowles in view of Chu (US Patent 4,720,356).

The Examiner has rejected Claims 1-5, all of the claims actively being considered, under the judicially created doctrine of obviousness-type double patenting over claims of copending application Serial No. 10/649,739. Said application and the present application are commonly owned. Attorney for Applicants concurrently submits a Terminal Disclaimer in compliance with 37 CFR 1.321(c) to overcome the present provisional rejection. **A copy of the concurrently filed Terminal Disclaimer is attached to this Letter of Response as Appendix 2.**

Withdrawal of the double patenting rejection with respect to copending application Serial No. 10/649,739 is solicited.

The Examiner has rejected Claims 1-5, all of the claims actively being considered, under the judicially created doctrine of obviousness-type double patenting over claims of copending application Serial No. 10/649,747. Said application and the present application are commonly owned. Attorney for Applicants concurrently submits a Terminal Disclaimer in compliance with 37 CFR 1.321(c) to overcome the present provisional rejection. **A copy of the concurrently filed Terminal Disclaimer is attached to this Letter of Response as Appendix 3.**

Withdrawal of the double patenting rejection with respect to copending application Serial No. 10/649,747 is solicited.

Attorney for Applicants believe that the Examiner will agree that the claims under consideration in the present application are free from formal and art rejections and is in condition for allowance. Such action is respectfully solicited.

Respectfully submitted,

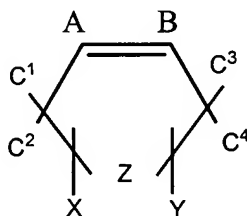
A handwritten signature in black ink, appearing to read 'Howard Troffkin', with a long horizontal flourish extending to the right.

Howard Troffkin
Attorney for Applicants
Reg. No. 25,184

cc: M. Quatt

1. (Previously Amended): A film comprising at least one layer, the layer comprising an oxygen scavenger composition comprising a condensation polymer and an oxygen scavenging catalytic amount of a transition metal salt, compound or complex, wherein said polymer comprises mer units derived from:

(A) at least one or a mixture of substituted alicyclic compounds having non-aromatic, ethylenic functionality according to the following representation:



wherein

A, B, C¹, C², C³, C⁴ each independently represents hydrogen or a C_qH_{2q+1} hydrocarbyl group with q being an integer of from 0 to 20, provided that either A or B and at least one of C¹, C², C³, C⁴ are hydrogen atoms and each carbon atom of the alicyclic ring is fully substituted by hydrogen, hydrocarbyl, X and/or Y group(s) or mixtures thereof to fill its valence state;

X and Y each independently represents -(CH₂)_n-C(=O)-D with n being an integer in the range from 0 to 20 and D being selected from a halide atom or an OR group wherein R is hydrogen atom or a C₁-C₁₂ alkyl group, or X and Y together represent -(CH₂)_n-C(=O)_x-D with x being 2, n being an integer in the range from 0 to 20 and D is oxygen atom; and

Z representing a -(C_tH_{2t})- hydrocarbylene group with t being an integer in the range from 1-4;

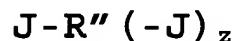
(B) at least one or a mixture of difunctional hydrocarbon compounds according to the following representation:



wherein

R' represents a C₅ or greater hydrocarbon group selected from alkylene, cycloalkylene or arylene group, and
 each G represents a hydroxyl or an amino group;

(C) from 300 to 15,000 parts per million based on the total of (A), (B), (C) and (D) of at least one or a mixture of polyfunctional hydrocarbon compounds according to the following representation:



wherein

R'' represents a C₂-C₂₀ hydrocarbon group selected from alkylene, cycloalkylene, arylene, alkarylene or aralkylene groups or mixtures thereof;

J represents a functional group selected from -OH, -NH₂, -N=C=O and -(CH₂)_n-C=O)-D with n being an integer in the range from 0 to 20 and D being selected from a halide atom or an OR''' group, wherein R''' is an -H, or C₁-C₁₂ alkyl group, or two J groups together represents -(CH₂)_n-C=O)_x-D with n being an integer of from 0 to 20, D being an oxygen atom and x being 2;

z is an integer of from 2 to 5; and

(D) from 1 to 20 mole percent of the total of (A), (B), (C) and (D) of at least one or a mixture of monomer compounds selected from isophthalic acid, terephthalic acid, tetrahydroisophthalic acid, tetrahydroterephthalic acid, hydrogenated isophthalic acid, hydrogenated terephthalic acid, C₁-C₁₂ alkyl esters thereof, anhydride derivatives thereof, and hydrocarbyl derivatives

thereof and lower C₁-C₅ glycol ester derivatives thereof; said X and Y of (A), G of (B) J of (C) and functional groups of (D) are in amounts that provide a molar ratio of carboxylic acid, acid ester, acid halide and isocyano groups to hydroxyl and amino groups of from 0.9 to 1.1:1.

2. (Original): The film of claim 1 wherein monomer (A) is selected from *cis*-1,2,3,6-tetrahydrophthalic anhydride; and dimethyl-1,2,3,6-tetrahydrophthalate.

3. (Original): The film of claim 1 wherein monomer (B) is selected from 1,5-pentanediol, 1,6-hexanediol, 1,7-heptanediol, 1,8-octanediol and mixtures thereof.

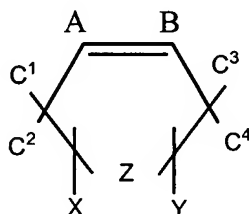
4. (Original): The film of claim 1 wherein the monomer (C) is selected from benzenepentacarboxylic acid, benzenehexacarboxylic acid, trimellitic anhydride, pyromellitic dianhydride, trimethylolpropane, pentaerythritol and mixtures thereof.

5. (Original): The film of claim 1 wherein monomer (D) is selected from isophthalic acid, terephthalic acid, isophthalic acid (C₁-C₃) alkyl ester, terephthalic acid (C₁-C₃) alkyl ester, bis(2-hydroxyethyl)terephthalate, bis(2-hydroxyethyl)isophthalate, hydrocarbyl substituted derivatives thereof and mixtures thereof.

6. (Withdrawn): A laminated product comprising a plurality of layers, including

i) at least one layer, the layer comprising an oxygen scavenger composition comprising a condensation polymer and a transition metal salt, compound or complex, wherein said polymer comprises mer units derived from

(A) at least one or a mixture of substituted alicyclic compounds having non-aromatic, ethylenic functionality according to the following representation:



wherein

A, B, C¹, C², C³, C⁴ each independently represents hydrogen or a C_qH_{2q+1} hydrocarbyl group with q being an integer of from 0 to 20, provided that either A or B and at least one of C¹, C², C³, C⁴ are hydrogen atoms and each carbon atom of the alicyclic ring is fully substituted by hydrogen, hydrocarbyl, X and/or Y group(s) or mixtures thereof to fill its valence state;

X and Y each independently represents -(CH₂)_n-C(=O)-D with n being an integer in the range from 0 to 20 and D being selected from a halide atom or an OR group wherein R is hydrogen atom or a C₁-C₁₂ alkyl group, or X and Y together represent -(CH₂)_n-C(=O)_x-D with x being 2, n being an integer in the range from 0 to 20 and D is oxygen atom; and

Z representing a -(C_tH_{2t-2})- hydrocarbylene group with t being an integer in the range from 1-4;

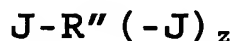
(B) at least one or a mixture of difunctional hydrocarbon compounds according to the following representation:



wherein

R' represents a C₅ or greater hydrocarbon group selected from alkylene, cycloalkylene or arylene group, and
 each G represents a hydroxyl or an amino group;

(C) at least one or a mixture of polyfunctional hydrocarbon compounds according to the following representation:



wherein

R'' represents a C₂-C₂₀ hydrocarbon group selected from alkylene, cycloalkylene, arylene, alkarylene or aralkylene groups or mixtures thereof;

J represents a functional group selected from -OH, -NH₂, -N=C=O and -(CH₂)_n-C=O)-D with n being an integer in the range from 0 to 20 and D being selected from a halide atom or an OR''' group, wherein R''' is an -H, or C₁-C₁₂ alkyl group, or two J groups together represents -(CH₂)_n-C=O)_x-D with n being an integer of from 0 to 20, D being an oxygen atom and x being 2;

z is an integer of from 2 to 5; and

(D) at least one or a mixture of monomer compounds selected from isophthalic acid, terephthalic acid, tetrahydroisophthalic acid,

tetrahydroterephthalic acid, hydrogenated isophthalic acid, hydrogenated terephthalic acid, C₁-C₁₂ alkyl esters thereof, anhydride derivatives thereof, and hydrocarbyl derivatives thereof and lower C₁-C₅ glycol ester derivatives thereof; and

ii) at least one layer comprising a material selected from the group consisting of

- a) a polymeric article,
- b) a paper article, and
- c) a metal article.

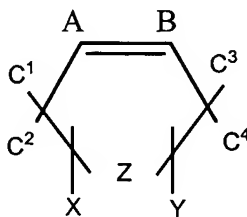
7. (Withdrawn): The laminated product of claim 6 wherein monomer (A) is selected from *cis*-1,2,3,6-tetrahydrophthalic anhydride; and dimethyl-1,2,3,6-tetrahydrophthalate.

8. (Withdrawn): The laminated product of claim 6 wherein monomer (B) is selected from 1,5-pentanediol, 1,6-hexanediol, 1,7-heptanediol, 1,8-octanediol and mixtures thereof.

9.(Withdrawn): The laminated product of claim 6 wherein the monomer (C) is selected from benzenepentacarboxylic acid, benzenhexacarboxylic acid, trimellitic anhydride, pyromellitic dianhydride, trimethylolpropane, pentaerythritol and mixtures thereof.

10. (Withdrawn): The laminated product of claim 6 wherein monomer (D) is selected from isophthalic acid, terephthalic acid, isophthalic acid (C₁-C₃) alkyl ester, terephthalic acid (C₁-C₃) alkyl ester, bis(2-hydroxyethyl)terephthalate, bis(2-hydroxyethyl)isophthalate, hydrocarbyl substituted derivatives thereof and mixtures thereof.

11. (Withdrawn): The laminated product of claim 6 wherein the polymeric article comprises a bottle.
12. (Withdrawn): The laminated product of claim 6 wherein the polymeric article comprises a tray.
13. (Withdrawn): The laminated product of claim 6 wherein the paper article comprises a gable top carton.
14. (Withdrawn): The laminated product of claim 6 wherein the metal article comprises a can.
15. (Withdrawn): An oxygen scavenger composition comprising a condensation polymer and a transition metal salt, compound or complex, wherein said polymer comprises mer units derived from
(A) at least one or a mixture of substituted alicyclic compounds having non-aromatic, ethylenic functionality according to the following representation:



wherein

A, B, C¹, C², C³, C⁴ each independently represents hydrogen or a C_qH_{2q+1} hydrocarbyl group with q being an integer of from 0 to 20, provided that either A or B and at least one of C¹, C², C³, C⁴ are hydrogen atoms and

each carbon atom of the alicyclic ring is fully substituted by hydrogen, hydrocarbyl, X and/or Y group(s) or mixtures thereof to fill its valence state;

X and Y each independently represents $-(CH_2)_n-C=O)-D$ with n being an integer in the range from 0 to 20 and D being selected from a halide atom or an OR group wherein R is hydrogen atom or a C_1-C_{12} alkyl group, or X and Y together represent $-(CH_2)_n-C=O)_x-D$ with x being 2, n being an integer in the range from 0 to 20 and D is oxygen atom; and

Z representing a $-(C_tH_{2t-2})-$ hydrocarbylene group with t being an integer in the range from 1-4;

(B) at least one or a mixture of difunctional hydrocarbon compounds according to the following representation:

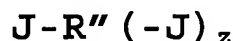


wherein

R' represents a C_5 or greater hydrocarbon group selected from alkylene, cycloalkylene or arylene group, and

each G represents a hydroxyl or an amino group;

(C) at least one or a mixture of polyfunctional hydrocarbon compounds according to the following representation:



wherein

R'' represents a C_2-C_{20} hydrocarbon group selected from alkylene, cycloalkylene, arylene, alkarylene or aralkylene groups or mixtures thereof;

J represents a functional group selected from $-OH$, $-NH_2$, $-N=C=O$ and $-(CH_2)_n-C=O)-D$ with n being an integer in the range from 0 to 20 and D

being selected from a halide atom or an OR''' group, wherein R''' is an -H, or C₁-C₁₂ alkyl group, or two J groups together represents -(CH₂)_n-C(=O)_x-D with n being an integer of from 0 to 20, D being an oxygen atom and x being 2;

z is an integer of from 2 to 5; and

(D) at least one or a mixture of monomer compounds selected from isophthalic acid, terephthalic acid, tetrahydroisophthalic acid, tetrahydroterephthalic acid, hydrogenated isophthalic acid, hydrogenated terephthalic acid, C₁-C₁₂ alkyl esters thereof, anhydride derivatives thereof, and hydrocarbyl derivatives thereof and lower C₁-C₅ glycol ester derivatives thereof.

16. (Withdrawn): The composition of claim 15 wherein monomer (A) is selected from *cis*-1,2,3,6-tetrahydrophthalic anhydride; and dimethyl-1,2,3,6-tetrahydrophthalate.

17. (Withdrawn): The composition of claim 15 wherein monomer (B) is selected from 1,5-pentanediol, 1,6-hexanediol, 1,7-heptanediol, 1,8-octanediol and mixtures thereof.

18. (Withdrawn): The composition of claim 15 wherein the monomer (C) is selected from benzenepentacarboxylic acid, benzenhexacarboxylic acid, trimellitic anhydride, pyromellitic dianhydride, trimethylolpropane, pentaerythritol and mixtures thereof.

19. (Withdrawn): The composition of claim 15 wherein monomer (D) is selected from isophthalic acid, terephthalic acid, isophthalic acid (C_1-C_3) alkyl ester, terephthalic acid (C_1-C_3) alkyl ester, bis(2-hydroxyethyl)terephthalate, bis(2-hydroxyethyl)isophthalate, hydrocarbyl substituted derivatives thereof and mixtures thereof.

20. (Withdrawn): The composition of claim 15 wherein the transition metal is present in from 0.001 to 1 weight percent based on the total weight of the mixture.

21. (Withdrawn): The composition of claim 15 wherein the transition metal is present as a salt selected from the group consisting of cobalt neodecanoate, cobalt 2-ethylhexanoate, cobalt oleate, cobalt acetylacetonate, and cobalt 2-ethylbutyrate.

22. (Withdrawn): The composition of Claim 15 wherein the composition comprises an effective amount of a photoinitiator.

23. (Withdrawn): The composition of claim 15 wherein the oxygen scavenger composition comprises a diluent polymer selected from the group consisting of ethylene polymer and copolymer, polyester, polyvinyl chloride, polyvinylidene dichloride, polycaprolactone, polyamide, polycarbonate, polyurethane, polyether, polypropylene, polystyrene, and copolymers and mixtures thereof.

24. (Withdrawn): The composition of claim 15 wherein
a) the condensation polymer is derived from monomer (C) in the amount of from 300 to 15,000 parts per million based on the total monomer content used,

- b) the condensation polymer is derived from monomer (D) in the amount of from 2 to 25 molar percent of the total of monomers (A) and (D), and
- c) the molar ratio of carboxylic acid, acid ester, acid halide and isocyanate groups to hydroxyl and amine groups of monomers (A), (B), (C) and (D) is from 0.9 to 1.1.